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# NEVADA CANNABIS REPORT

An Examination of the Policy Environment, Market Factors  
and Stakeholder Views

PRESENTED BY  
Cannabis  
Policy Institute

UNLV

**Riana Durrett, JD, LLM**  
DIRECTOR, CANNABIS POLICY INSTITUTE

**Christina Dempsey, MBA**  
DIRECTOR, CANNABIS POLICY LAB

# Authors

## **Riana Durrett, JD, LLM**

Director

University of Nevada, Las Vegas - Cannabis  
Policy Institute

## **Christina Dempsey, MBA**

Director

Cannabis Policy Lab

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# EXECUTIVE SUMMARY

This report examines the landscape for cannabis policy in Nevada, providing considerations and recommendations for policymakers. It includes explanations and analyses of state policy goals, impacts on market formation, and regulatory implementation challenges. This report is informed by input from more than 60 stakeholders, including regulators, the cannabis industry, social equity advocates, law enforcement, the gaming industry, and academic researchers.

## What We Heard from Stakeholders

All stakeholder groups identified the unlicensed cannabis market as the top cannabis issue facing Nevada. There is a strong desire for enforcement against unlicensed cannabis businesses, particularly illegal sellers that target tourists, and for greater coordination and strategic deployment of resources by the state. There was also wide acknowledgment that public education is necessary to prevent tourists from unknowingly engaging with illegal sources.

Stakeholders also expressed a great deal of pride in Nevada's implementation of strong product safety standards within the cannabis industry. There is a belief that Nevada is succeeding in building another "gold standard" industry, as already exists for gaming, and there is a great opportunity to innovate and lead. However, there are also deep concerns about how a shift to a national market will affect Nevada cannabis businesses.

## Key Policy Issues

This report describes six key topics relevant to cannabis policymaking in Nevada in detail. Within each topic, we have included specific recommendations for policymakers to continue to improve and advance each area.

**Eliminating the Unlicensed Market:** Nevada's unlicensed cannabis market is multi-faceted and includes both large-scale traffickers as well as smaller operators and individuals. Approximately 21-30% of cannabis sales in Nevada occur through unlicensed transactions, posing safety issues for the public and tourists and harming the state's efforts to create a healthy, controlled marketplace. Recommendations:

1. Develop a comprehensive, concerted strategy to enforce against the unlicensed market
2. Strengthen the Cannabis Compliance Board's (CCB) seizure and civil fine authority
3. Provide the Department of Taxation with authority to collect taxes on unlicensed cannabis sales

4. Expand cannabis advertising restrictions to apply to hemp
5. Broaden consumer access to regulated products

**Fostering a Healthy, Sustainable, and Regulated Market:** Continued federal prohibition creates significant financial burdens for licensed cannabis businesses. Though the state cannot control these impacts, it can control the regulatory burdens it places on businesses. Identifying areas where rules can be relaxed or removed is crucial to fostering a balanced approach that maintains safety while encouraging growth and innovation. Recommendations:

6. Reduce known regulatory burdens on businesses
7. Allow transfers of tax liability
8. Weigh market costs, benefits and other regulatory controls when considering changes to testing lot size
9. Allow testing laboratories to perform confirmation testing

**Creating Opportunities for Social Equity:** The War on Drugs had devastating impacts on individuals and communities and created systemic inequities. Targeted investments to repair these harms could create economic opportunity and improve outcomes. Recommendations:

10. Create a Social Equity Liaison within the CCB
11. Allow social equity businesses to sell their licenses
12. Allow social equity operators to enter into management contracts, joint venture agreements or other arrangements that create market access
13. Support pilot programs for social equity initiatives

**Preparing for a National Cannabis Market:** The shift from intrastate commerce to a national cannabis market would dramatically reshape how cannabis is regulated, particularly if it occurs through congressional or court action. Recommendations:

14. Continue and expand conversations about potential federal policy changes and how Nevada can best respond
15. Do not implement policy changes prematurely

**The Future of Cannabis and Gaming:** Nevada regulates both gaming and cannabis but, by law, the two industries are strictly separated. Market intersections have already begun, but public and policy discourse on how to legally and appropriately do so lags. Recommendation:

16. Request a report from the Gaming Control Board (GCB) and CCB about future pathways and eventual parameters for integration between cannabis and gaming

**Grounding Policy in Research and Data:** Scientific knowledge about cannabis and its effects

has not kept pace with legalization and market development. Nevada is collecting robust market data that could provide unique insights for policy and public health. Some states have invested in cannabis research—both to inform policy development and in response to research funding needs. Recommendations:

17. Publish aggregated data on cannabis market activity and provide researchers access to data sets
18. Fund research into key policy areas and impacts of legalization

## **Conclusion**

While cannabis policy is still largely experimental, and approaches to oversight must continue to evolve over time, Nevada has the benefit of more than 10 years of experience in developing and implementing cannabis regulations. The recommendations presented, if enacted, would provide meaningful improvement to the current structure and the Cannabis Policy Institute (CPI) is dedicated to continuing to examine the significant data that has developed over the past decade, as well as the evolving trends and changes in cannabis law and policy. As the market continues to develop, we encourage lawmakers and regulators to consistently refer to the preamble included in Nevada’s cannabis statute (Nevada Revised Statutes [NRS] 678A.005), which describes legislative intention for cannabis laws. In the long term, this preamble should serve as a guiding force to ensure policies are clear, consistent, and aligned with state goals.

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# BACKGROUND

## *United States Cannabis Laws*

Cannabis has been illegal or effectively illegal at the federal level for nearly a century, beginning with the *Marihuana Tax Act*, adopted in 1937. The Act imposed heavy taxation on cannabis and hemp for prescribing physicians, pharmacists and those involved in cultivation and manufacturing, and it punished violators with criminal penalties. Its steep taxes and strict enforcement made cannabis operations so unprofitable that the market ceased to function.

In 1968, 73 members of the United Nations, including the United States, adopted a global Single Convention for Narcotic Drugs. Two years later, in 1970, Congress passed the Comprehensive Drug Abuse Prevention and Control Act, consolidating numerous previous drug laws and adopting the policies agreed to under the Single Convention. Under the Act's second title, the Controlled Substances Act (CSA), restricted drugs are placed on one of five schedules, based on their potential for abuse and medical usefulness—a structure which loosely mirrors the Single Convention.

Cannabis was initially placed in the most strictly controlled category under both the Single Convention and CSA, though there was some expectation that it may be re-evaluated after further scientific study.<sup>1</sup> A National Commission on Marihuana and Drug Abuse was convened to review the effects of cannabis, efficacy of laws, and its scope and use in the United States. After two years of study, it published a report recommending descheduling cannabis.<sup>2</sup> Despite this, cannabis remained on Schedule I on the CSA—a category reserved for substances that have “no currently accepted medical use and a high potential for abuse.”<sup>3</sup>

As states have legalized cannabis and allowed marketplaces to grow, the federal government has exercised discretion in its enforcement of the CSA. In 2009 and 2011, the U.S. Department of Justice (DOJ) issued memoranda instructing federal prosecutors to deprioritize prosecutions in states authorizing medical cannabis use.<sup>4</sup> These memoranda were revoked in 2018 and have not been reinstated, though the de-prioritization of

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1 Egeberg, Dr. Roger O., Assistant Secretary for Health and Scientific Affairs, U.S. Department of Health, Education and Welfare. Letter to Congress. (Aug. 14, 1970).

2 National Commission on Marihuana and Drug Abuse. “[Marihuana: a signal of misunderstanding.](#)” First Report. (Mar. 22, 1972).

3 Title 21 United States Code (USC) [Controlled Substances Act](#).

4 Dempsey, Christina. “[Revisiting the Cole Memo.](#)” *Cannabis Policy Lab*, Through the Weeds, (19 Oct. 2023). Last accessed Nov. 22, 2024.

enforcement largely remains in effect.

Prospective changes to cannabis’s federal status are generally referred to in one of three ways:

- Rescheduling – Moving cannabis to a different scheduling category on the CSA
- Descheduling – Removing cannabis from the CSA
- Legalizing – Adopting a new federal policy that allows and regulates cannabis

Both descheduling and legalizing actions require Congressional approval, but the U.S. Drug Enforcement Administration (DEA) can reschedule cannabis using administrative procedures.

### Congressional Actions

In 2014, the U.S. Congress began using appropriations riders to prevent the DOJ from enforcing against medical cannabis operations authorized by states.<sup>5</sup> Further Congressional action has been attempted but only one bill has been successful—the Medical Marijuana and Cannabidiol Research and Expansion Act (H.R. 8454), which eased some restrictions on cannabis research.<sup>6</sup>

Some of the unsuccessful Congressional proposals include attempts to legalize cannabis and comprehensively reform federal laws. These proposals provide some indication of what federal legalization may eventually look like:

| LEGALIZATION PROPOSAL   | BILL(S) AND YEAR INTRODUCED   |
|---|---|
| Deschedule cannabis and regulate it at the federal level  | <i>Cannabis Administration and Opportunity Act (CAOA) – 2021</i><br><i>Marijuana Opportunity Reinvestment and Expungement (MORE) Act – 2021</i> |
| Deschedule cannabis and regulate it at the state level  | <i>States Reform Act – 2021</i>   |
| Deschedule cannabis, allow states to determine whether to legalize it, and allow shipments between legal states | <i>Common Sense Cannabis Reform for Veterans, Small Businesses and Medical Professionals Act – 2021</i>   |

Incremental reforms have also been attempted, but none have been successful yet. These include proposals to:

- Expand banking within the cannabis industry

5 Congressional Research Service. [“Funding Limits on Federal Prosecutions of State-Legal Medical Marijuana.”](#) (May 14, 2024).

6 Rutgers Addiction Research Center. [“President Biden Signs Law Expanding Research on Cannabis.”](#) (December 2022).



- Allow veterans to access medical cannabis
- Expunge state cannabis convictions

## Administrative Actions

In 2023, the U.S. Department of Health and Human Services (HHS) concluded an 11-month scientific review process and recommended that cannabis be moved to Schedule III on the CSA. The DEA is currently engaged in rulemaking related to this change and is expected to hold a public hearing in early 2025.

Rescheduling cannabis from Schedule I to Schedule III would recognize its medicinal value, but it would effectively maintain the federal prohibition on commercial manufacturing, distribution, and sales. The primary practical impact of rescheduling would be to eliminate a significant tax penalty imposed under Internal Revenue Code (IRC), section 280E<sup>7</sup> and reduce some barriers to research.

IRC section 280E prohibits businesses that produce, transport or sell Schedule I drugs from deducting standard business expenses on their taxes. There are no exceptions for cannabis businesses legalized under state law. Because they cannot take standard business deductions, cannabis businesses pay an effective federal tax rate of up 70 percent. This creates a tremendous financial burden, particularly for small and equity operators.

Removing the 280E tax penalty is significant, but rescheduling alone would not resolve the significant gaps between state and federal laws. It would not make state-legal cannabis businesses federally legal, nor would it remove the federal criminalization of cannabis use. Many challenges arise from this state-federal policy conflict, including legal and financial risks for cannabis businesses as well as functions that are idiosyncratic to the cannabis industry.<sup>8</sup>

## State Cannabis Laws

As of October 2024, 38 states allow medical cannabis and 24 states, two U.S. territories, and the District of Columbia have legalized recreational use.<sup>9</sup> Most Americans now live in a state with legal cannabis,<sup>10</sup> and public opinion about cannabis has drastically changed in the last decade:

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<sup>7</sup> Berke, Jeremy. "[Why Do Cannabis Companies Pay so Much Tax? Blame a Drug Dealer from the 70's.](#)" *Cultivated*, (June 18, 2023). Last accessed Nov 22, 2024.

<sup>8</sup> Marijuana Policy Project. (2024). [Federal Policy](#), (May 9, 2024). Last accessed Nov. 22, 2024.

<sup>9</sup> Bryan, Kate. "[Cannabis Overview](#)." National Conference of State Legislatures, June 20, 2024. Last accessed Nov. 22, 2024.

<sup>10</sup> Chapekis, Athena, and Sono Shah. "[Most Americans Now Live in a Legal Marijuana State – and Most Have at Least One Dispensary in Their County](#)." *Pew Research Center*, (Feb. 29, 2024). Last accessed Nov. 22, 2024.

- 2000: 31% believed that cannabis should be legalized<sup>11</sup>
- 2024: 88% now believe it should be legal for medical or recreational use<sup>12</sup>

State cannabis markets operate in silos, with each state’s supply chain (from seed to sale) contained wholly within that state’s borders. This is due, in part, to 2013 guidance from the DOJ that outlined eight priorities for state markets, including “preventing the diversion of marijuana from states where it is legal under state law... to other states.”<sup>13</sup>

At the time, only two states (Colorado and Washington) had legalized cannabis for adult-use, and this guidance was interpreted to mean that cannabis markets must remain intrastate. Today, requirements for intrastate-only commerce are incorporated into every state’s cannabis legalization statutes across the country.

### **Intoxicating Hemp**

The Agricultural Improvement Act (“Farm Bill”), signed into law in December 2018, removed hemp from the CSA.<sup>14</sup> In the years since, highly intoxicating hemp products have proliferated across the country. This has expanded challenges for cannabis regulators and businesses alike. Hemp businesses are not subject to regulatory controls that have become standard within cannabis markets. They are often labeled inaccurately, lack basic product safety standards and are widely available to youth. Cannabis businesses must now compete against these products, which are not taxed, and are readily accessible both locally and by mail.

Researchers are also struggling to untangle the societal impacts of cannabis from those of hemp. Consumers often do not understand the difference between cannabis and hemp and, as a result, often do not self-report their respective product usages correctly on state and national drug use surveys.

Congress is currently negotiating the next iteration of the Farm Bill. Proposals have emerged to close the loophole that has allowed unregulated, intoxicating hemp products to proliferate, but have already received significant pushback from the hemp products industry. It remains to be seen whether Congressional agreement on hemp can be reached.

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11 Pew Research Center. “[Most Americans Favor Legalizing Marijuana for Medical, Recreational Use.](#)” Pew Research Center, (Mar. 26, 2024). Last accessed Nov. 22, 2024.

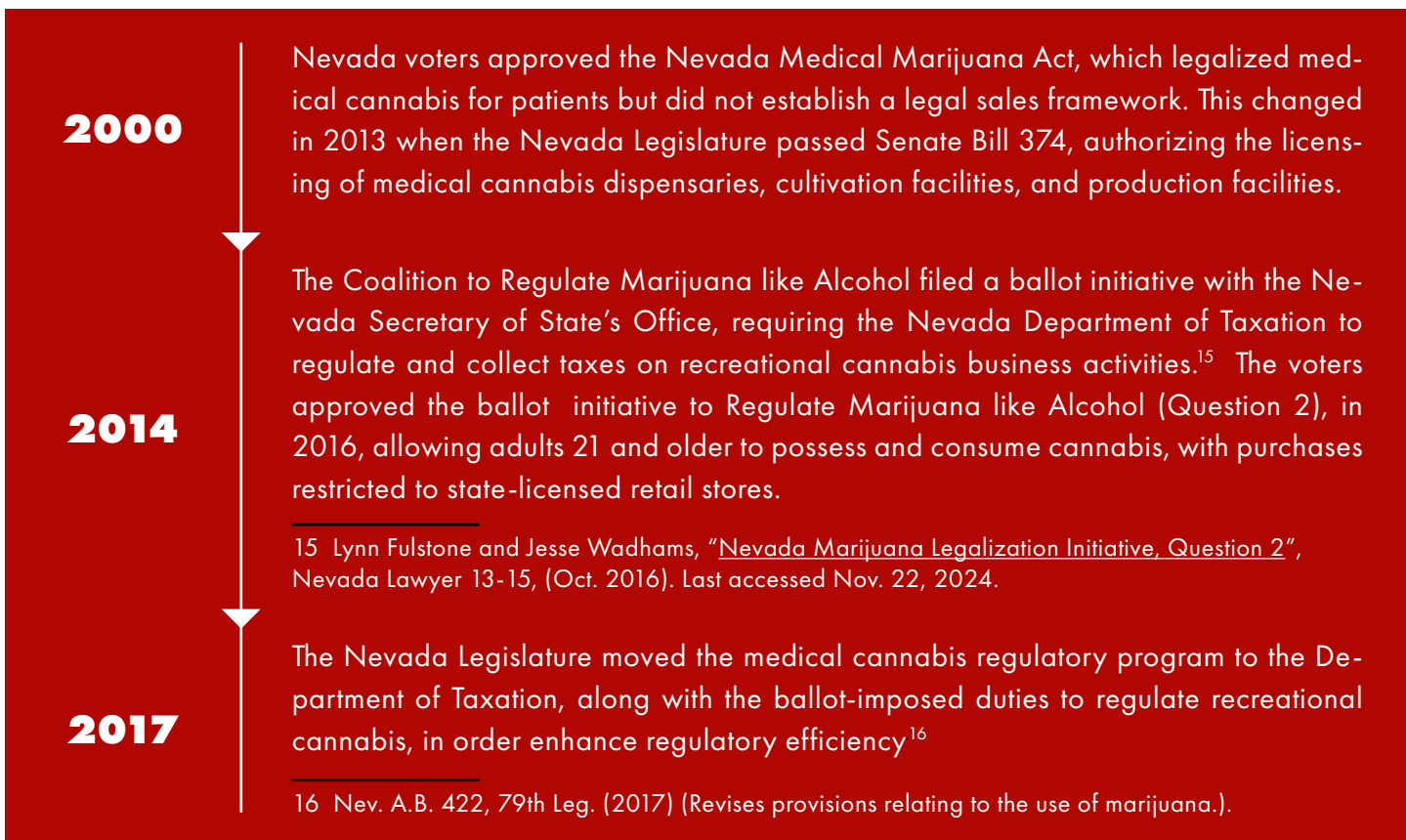
12 *Id.*

13 Dempsey, Christina. “[Revisiting the Cole Memo.](#)” *Cannabis Policy Lab, Through the Weeds*, (Oct. 19, 2024). Last accessed Nov. 22, 2024.

14 *Id.*

## Nevada Cannabis Laws

The history of cannabis in Nevada is marked by significant legislative and regulatory changes aimed at legalizing and regulating its use.



The Department of Taxation achieved several successes, including launching the sale of cannabis six months prior to the date required by the ballot initiative and defeating legal action filed by alcohol distributors that would enjoin legal sales from going forward.<sup>17</sup> However, the Department of Taxation and cannabis industry were also the subject of negative press relating to licensing litigation<sup>18</sup> and a moratorium on license transfers and administrative backlogs.<sup>19</sup>

The responsibility for regulating cannabis shifted once again in 2019 when then-Governor Steve Sisolak assembled the Advisory Panel on the Creation of a Cannabis Compliance Board and the legislature created the CCB. The CCB was established through the passage of Assembly Bill

<sup>17</sup> Michelle Rindels, "[Tax Commission Approves Regulations Allowing Early Start for Nevada's Recreational Marijuana Industry](#)", The Nevada Independent (May 8, 2017). Last accessed Nov. 22, 2024.

<sup>18</sup> David Ferrara, "[Las Vegas Trial Over World War Weed Begins Despite Pandemic](#)", Las Vegas Review-Journal (July 17, 2020) Last accessed Nov. 22, 2024.

<sup>19</sup> Colton Lohead, "[Russian Oligarch Who Funneled Money to Nevada Candidates Indicted](#)", Las Vegas Review-Journal (Mar. 14, 2022). Last accessed Nov. 22, 2024.

533, assuming regulatory authority over the cannabis industry from the Department of Taxation starting July 1, 2020.

Modeled after Nevada’s esteemed gaming regulatory system, which has been considered the “gold standard” in the industry, the CCB was designed to ensure a similarly robust and transparent structure for cannabis regulation.<sup>20</sup> The intention was to mirror gaming’s success in creating an accountable and highly regulated environment, safeguarding public trust while promoting economic growth.<sup>21</sup>

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20 Exec. Order No. 2019-03, Establishing the Governor’s Advisory Panel for Creating a Nevada Cannabis Compliance Board (Jan. 25, 2019).

21 Steve Yeager, Testimony on Assembly Bill 533, Assembly Committee on Judiciary, 80th Session, 2019.

# RESEARCH APPROACH AND METHODS

## *Stakeholder Engagement*

This policy report was informed by conversations with more than 60 stakeholders conducted over three months, from August until October 2024. We spoke with:

- State cannabis regulators, including CCB staff and board members
- The cannabis industry, including owners and operators, attorneys, lobbyists, and industry associations
- Social equity experts and advocates
- Gaming industry experts
- State and local law enforcement
- Researchers and academics in various fields, including sociology, public health, gaming, and economics
- National cannabis policy experts

Most participants are identified in the acknowledgements of this paper, although some requested, and were granted, anonymity to discuss sensitive topics.

Engagement was conducted primarily through facilitated small group discussion. Seven groupings were created, combining stakeholders with similar views while making space for subject-matter experts to have deeper conversations. Most group sessions were conducted in-person at the University of Nevada, Las Vegas campus between October 8-9, 2024.

One-on-one conversations were also accommodated for those stakeholders who could not attend their designated group sessions, were not comfortable expressing their views in a group setting, or whose perspectives were later identified as important to include.

## *Development of the Report*

Common themes emerged in many of the stakeholder input sessions, and those became the framework of this report. Suggestions provided by participants were vetted for feasibility, alignment with state economic and policy goals, and scope of impact.

Stakeholders were not always aligned about how the state should approach key policy issues. Some group discussions were contentious, and views across stakeholder groups differed or conflicted at times. However, even when in disagreement, there were common threads in beliefs across all groups

We attempt to describe this landscape of viewpoints throughout the report, particularly where relevant for an understanding of the policymaking environment. It is important to note, however, that the assessments and recommendations presented in this report do not necessarily reflect the views of *all* stakeholders.

## **Limitations of the Report**

As a policy area, cannabis is still early in development. Though state cannabis legalization began nearly 30 years ago, detailed regulatory frameworks only began emerging, in earnest, about a decade ago. Research has been hampered by cannabis's federal status as a Schedule I drug and, as a result, science and evidence lag behind the pace at which policy decisions are being made.

Efforts were made to solicit feedback from a wide range of stakeholders but, given time and resource constraints, we could not speak to every possible group. We were not able to speak with any current top executives of gaming institutions, though we did extend an invitation to some. The reluctance to engage was understandable, given the sensitive nature of the topic, and we hope that they will participate in future academic and policy discussions. To incorporate gaming perspectives, we engaged consultants, attorneys, and former executives.

The analysis in this report reflects best-available information, expert opinion, a wide range of perspectives, and potential economic impacts. As knowledge and experience continue to grow, our collective understanding of challenges and approaches will continue to evolve.

We believe strongly that the recommendations presented in this report, if enacted, would provide meaningful improvement to the current structure. Recommendations were developed based on:

- Feedback from experts
- Experiences of regulators and law enforcement
- Unique characteristics of Nevada and approaches to other industries
- Observed successes from other state approaches to cannabis policy

Cannabis policy is experimental. States across the country are approaching market regulation, enforcement, and community investment in a wide variety of ways, creating a tapestry of legal environments and public impacts. This report is not intended as a comprehensive analysis of every possible pathway, but rather as a starting place for discussions. There are many useful ways to address policy issues, and there may be other opportunities to achieve similar gains.

## WHAT WE HEARD FROM STAKEHOLDERS

We asked two questions in nearly every conversation with stakeholders:

- What do you view as the top issues facing the Nevada cannabis market?
- What are your suggestions for addressing or improving those issues?

Across all groups, stakeholders believe the top issue facing Nevada is the unlicensed cannabis market. There is a strong desire for more enforcement against unlicensed cannabis businesses, particularly those operations facilitating illegal sales in tourist areas.

Many perceive the State of Nevada as not having a plan or concerted strategy to enforce against unlicensed commercial activity. This perception was strongest when talking about unlicensed sales in Las Vegas.

Cannabis operators expressed frustration about restrictions that prevent them from meeting tourist demand, such as setbacks that place them away from tourist centers and restrictions on delivery. They generally view unlicensed sellers as unfair, unsafe competition, offering greater access and lower prices without the product safety requirements that are a hallmark of Nevada's program. They believe greater enforcement would act as a deterrent by increasing the risk calculation for unsanctioned behavior. They expressed the need for friction or costs for choosing to grow and sell outside the state licensed system. There was widespread dismay due to the perceived lack of any negative consequences for most operators choosing to sell outside of the regulatory system.

***“Across all groups, stakeholders believe the top issue facing Nevada is the unlicensed cannabis market. ,,”***

Further, law enforcement officials and others expressed concern that unlicensed sales are creating public safety concerns, including for tourists and youth. In particular, concerns were raised that tourist safety risks have the potential to negatively impact the state's economy and reputation for “gold standard” safety and regulation.

We do note that Nevada has begun conversations around a stronger enforcement ap-



proach, and this is discussed in the “Eliminating the Unlicensed Cannabis Market” section later in the report.

Those stakeholders with a deep understanding of government administration and law enforcement believe effective enforcement will require:

- A comprehensive strategy
- Defining characteristics of the various types of unlicensed activity
- A range of tactics, tailored to each illegal activity and emphasizing civil over criminal approaches (except for large-scale operations)
- Participation of multiple state and local agencies
- Designation of a “lead agency” with authority, a clear mandate, and resources
- Prosecution following enforcement action

Stakeholders differed about which state agency—the Department of Public Safety or CCB—should lead state enforcement efforts, but generally agreed that participation of both agencies will be important for success.

Regardless of how Nevada chooses to approach enforcement, there was collective agreement that the state’s focus should not expend its limited enforcement resources against individuals who use cannabis or small intra-community transactions.

Additionally, all stakeholders believe that addressing the unlicensed market requires public education about what is and is not legal. There is agreement that tourists, particularly in Las Vegas, do not know that the services delivering cannabis to hotel rooms are illegal and that you cannot consume cannabis in public. One participant said they felt that, without education or legal places to consume cannabis, tourists are “being set up for failure.”

***“addressing the unlicensed market requires public education ,,***

Both cannabis operators and economists believe that providing tourists better access to the legal market would be helpful to divert existing demand away from illegal sources. There was a consensus that there should be some cost, or at least perceived potential consequences, for operating outside Nevada’s legal regulatory program.

When discussing the regulated cannabis marketplace, **stakeholders expressed pride in Ne-**

**vada’s product safety standards** and frequently described the state’s approach as the “gold standard.” Regulators, cannabis operators, and others value Nevada’s emphasis on facility cleanliness, inventory control, and testing, as well as regulators’ ability to recall contaminated products.

Stakeholders have a range of opinions about how to approach and improve other policy issues related to the regulated cannabis market, including how to make the legal market more competitive and how to reduce harm. These perspectives are discussed further, where relevant, throughout the report.

Finally, we spent some time in each stakeholder session talking about the potential impacts of federal policy change and the shift to a national cannabis market.

***“There are deep concerns about how a shift to a national cannabis market will affect Nevada cannabis businesses. ,,”***

Interstate commerce—that is, sales occurring between operators in different states—is a heavily-discussed topic among cannabis regulators nationwide and was the subject of a February 2024 report by the Nevada Cannabis Advisory Commission (CAC).<sup>22</sup> Despite this, some cannabis operators we spoke with expressed disbelief and, at times, surprise that this is likely to occur at some point in the future.

In our sessions, we described the ways interstate commerce may occur (which are described later in the report) and asked for input about how Nevada can best prepare for this transition.

There are deep concerns about how a shift to a national cannabis market will affect Nevada cannabis businesses. Because it is generally cheaper and easier to grow cannabis elsewhere, there is an expectation that local farmers and product manufacturers would struggle to survive. One person described interstate commerce as a long-term threat, and another said, “Nevada is not in a position to compete with California and Michigan.”

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<sup>22</sup> Nevada Cannabis Advisory Commission. [“Report and Recommendations on Rescheduling/Descheduling Cannabis as required by SB 277.”](#) Sent by Cannabis Compliance Board to Legislative Counsel Bureau and The Joint Interim Standing Committee on the Judiciary. (Feb. 29, 2024).

Regulators expressed concerns about how consumer safety would be affected for cannabis products made in states that conduct fewer inspections, as well as about the reliability of testing conducted in other states, particularly those states that have been dealing with widespread misreporting and fraud.

Similar concerns were expressed by advocates. One person cautioned that if cannabis follows hemp’s pathway to interstate commerce—suddenly and without preparation—it will result in lower quality cannabis products. Another said, “Interstate commerce just opens it up for trash to be in the market.”

Overall, many stakeholders believe that the State of Nevada should advocate for incremental approaches to interstate commerce.



# KEY POLICY ISSUES

## *Eliminating the Unlicensed Cannabis Market*

### Issue Overview

Cannabis legalization has not led to an immediate cessation of unlicensed sources in any state. Rather, it has initiated a long-term transition from illegal to legal markets. Experts generally believe that it will require time—and federal policy change—to transition away from the underground markets that have existed and served demand for decades.<sup>23</sup>

As the transition from unlicensed to licensed markets occurs, the continued existence of unlicensed operations challenges regulators, frustrates legal businesses and jeopardizes public health and safety.

No state or jurisdiction has successfully eliminated unlicensed sources for cannabis, but many are having success speeding the transition and reducing public impacts. For example, Washington State reports 77% of consumers obtain their cannabis from a licensed store, which is higher than the 57% average among all legal states.<sup>24</sup> Canada has similarly reported as many as 70% of consumers are purchasing from legal sources<sup>25</sup> with observable declines in illegal cannabis storefronts across its municipalities. The states experiencing the most success reducing the prominence of their unlicensed market have committed resources and use a range of civil and criminal enforcement tactics.

Within Nevada, a considerable segment of cannabis sales occurs outside the regulated framework. A 2024 report, commissioned by the State of Nevada, estimates that 21-30% of cannabis sales are through unlicensed transactions—approximately \$242 million to \$370 million in sales upon which state tax is not being collected.<sup>26</sup> In addition, Nevada has the second largest illegal market per capita, after California, when comparing four western states.<sup>27</sup>

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23 Goldstein, Robin and Sambucci, Olena. "[Overview of the 2024 Nevada Cannabis Economy.](#)" Prepared by University of California Davis Cannabis Economics Group for University of Nevada Las Vegas, Cannabis Policy Institute. (Dec. 2024).

24 International Cannabis Policy Study. "[United States 2021 Cannabis Report.](#)" University of Waterloo. (Sept. 2022).

25 Health Canada. "[Taking stock of progress: Cannabis legalization and regulation in Canada.](#)" Government of Canada. (Oct. 20, 2022).

26 Nevada Cannabis Compliance Board. "[Cannabis Market Study.](#)" Prepared by TPMA. (Aug. 2024).

27 *Id.*

Nevada’s unlicensed market for cannabis is multi-faceted. Operators range from large-scale drug trafficking to smaller operations taking advantage of a perceived lack of enforcement, and individuals. The operations themselves vary considerably by region and include growing sites, distribution networks, pop-up events, and one-on-one sales.

The Las Vegas metropolitan area is visited by more than 40 million tourists each year, most of whom are unaware of the state’s cannabis purchase and consumption laws. Legal operators are restricted from operating in or delivering to the Strip Resort Corridor, where 70% of overnight guests stay.<sup>28</sup> These restrictions create space for illegal sales to fulfill demand through:

- **Unlicensed Delivery** — Orders are placed online, and delivery is made to a pre-arranged location (i.e., on the Strip, in a lobby) or directly to a hotel room. These services must advertise or otherwise make their services discoverable to potential customers, typically via website, app, or social media.
- **Pop-up Sales Parties** — Short-duration events where consumers can purchase a variety of cannabis products. These events are hosted in vacation rentals or suites, may include entertainment, and are typically promoted using social media or targeted online advertisements.

In rural areas and on publicly managed lands, natural resources and remote locations can be exploited to grow cannabis. The largest of these operations are run by foreign drug traffickers, who prefer to grow and move their cannabis within the U.S. rather than attempt to transport it across heavily-armed border checkpoints.<sup>29</sup>

- **Outdoor Farms** — Large-scale cannabis growing sites with 100s or 1,000s of plants worth millions of dollars. These sites often cause damage to the environment by diverting water flow or polluting soil. Pesticides are often heavily applied, creating significant health hazards for consumers.<sup>30</sup>

In locations throughout Nevada:

- **Indoor Farms** — Mid-size cannabis growing sites ranging from 30 to 100 plants worth \$10,000 to \$500,000, often in industrial warehouses. Smaller operations can also be found in retrofitted residential homes. These sites often use significant amounts of electricity.
- **Intoxicating Hemp Products** — Nevada law restricts the sale of hemp products to cannabis dispensaries and prohibits the sale of synthetic cannabinoid products (hemp

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28 Las Vegas Convention and Visitors Authority. “[2023 Las Vegas Visitor Profile Study](#).” Prepared by Heart+Mind Strategies. (2023).

29 Nevada State Police Investigation Division. “[Marijuana Eradication](#).” Last accessed Nov. 22, 2024.

30 Timko, Steve. “[Large marijuana operation found in rural Nevada](#).” KOLO 8 News Now. (Oct. 5, 2024). Last accessed Nov. 22, 2024.

derivatives that undergo chemical modifications to produce intoxicating forms of THC). However, despite these restrictions, sales are still occurring outside of the regulated supply chain, often in smoke shops or via online orders delivered by mail into the state. Consumers often do not know where to lawfully obtain these products or that synthetic drug products are prohibited. Further, hemp products are not subject to the same requirements as cannabis products, including advertising restrictions designed to reduce youth attraction.

Notably, individual behaviors, such as personal possession or public consumption, also persist following legalization. However, these should not be considered part of “unlicensed market” activities requiring additional enforcement, as they are not commercial in nature.

Each type of unlicensed activity has negative impacts for the public and licensed businesses. Each also has highly different characteristics and effective enforcement can only be achieved with tailored approaches to:

- Identifying unwanted behaviors
- Enforcing the law
- Deterring future behaviors
- Monitoring the landscape



For example, indoor farming uses large amounts of energy and is often located in commercial warehouses. Therefore, identifying this behavior can be assisted by partnerships with utility companies to identify unusual utility usage. Enforcement can be most effectively pursued through code violations. Deterrence may include penalties for property owners who know (or should have known) about the tenant improvements performed to equip such a site for production.

By contrast, none of these approaches are effective for outdoor farms. Outdoor farms are often located in remote areas or on public land, where property owners are unaware of their existence. Code enforcement is not effective, but environmental violations can sometimes be pursued.

With both indoor and outdoor farms, it can be difficult to identify a responsible party. Workers

are often vulnerable and have sometimes been forced into laboring for unfair wages. Pursuing penalties may further violate their human rights. Instead, destroying crops and dismantling farming infrastructure is key for ceasing the unwanted activity.

Law enforcement prioritization and resource allocation weigh into the prevalence of unlicensed sales and a lack of deterrence to operate illegally. There is some reluctance from law enforcement to pursue investigations against illegal cannabis operations, due to the prioritization of violent crime and perceived futility of prosecuting unlicensed cannabis activities.

Currently, there is no single state agency leading enforcement against unlicensed cannabis sales, despite discussion of the need for such designation since Nevada's 2019 legislative session.

Nevada has taken steps to address these challenges, notably through Senate Bill 328, passed in 2023, which aims to strengthen the CCB's authority in combating the unlicensed market. This included measures to seize and destroy unlicensed cannabis products, impose penalties on unlicensed activities, and enhance public education on the dangers of unlicensed cannabis. Such legislative efforts mark a critical step toward aligning Nevada with the enforcement successes seen in other states. However, these measures have not been implemented due to challenges and limited resources.

The CCB has also spearheaded multiple roundtable discussions and worked with key stakeholders to help make progress in this area. The CCB has significantly helped stakeholders and various law enforcement agencies understand challenges in approaches to quelling the unlicensed market as well as identify possible pathways forward.

## **Why this Issue is Important**

The unlicensed cannabis market is a public safety issue. Unlicensed sale of drugs, including cannabis, can lead to violence, resulting in injury or death. At least four murders associated with unlicensed sales have occurred in Las Vegas over the last year alone,<sup>31 32 33</sup> with one resulting in an "explosion of gunfire."<sup>34</sup>

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31 Charns, David. "[Two 15-year-olds charged with murder in death of Las Vegas marijuana delivery man.](#)" 8 News Now. Dec. 27, 2023. Last accessed Nov. 22, 2024.

32 Overton, Stephanie. "[Las Vegas teen dead after shooting over stolen marijuana plants.](#)" KLAS. (Apr. 16, 2024). Last accessed Nov. 22, 2024.

33 Seeman, Matthew. "[Man dead after marijuana deal leads to shooting in east Las Vegas.](#)" KSNV. (May 16, 2024). Last accessed Nov. 22, 2024.

34 Charns, David. "[19-year-old killed in 'explosion of gunfire' during Las Vegas marijuana transaction.](#)" KLAS. (Jun. 11, 2024). Last accessed Nov. 22, 2024.



Sellers often carry guns or other weapons, which can quickly escalate disputes, and some buyers/sellers arrange transactions with the intention of robbing the other party. Lieutenant Ailee Burnett of the Las Vegas Metropolitan Police Department's Narcotics Section recently said, "The black market for marijuana has become extremely dangerous."<sup>35</sup>

Unlicensed cannabis operators create unhealthy and unsafe market competition. Nevada legalized cannabis for adult-use in 2017, but restrictions in state law limit tourist access to regulated cannabis. Licensed stores must be set back 1,500 feet from gaming establishments, preventing any from opening on the Las Vegas Strip. Cannabis can only be delivered to residential addresses, preventing delivery to hotels and other places where tourists are located.

Unlicensed operators have emerged to fill the gap between high demand and limited legal avenues. Anyone with internet access can find services willing to bring cannabis products to any location of their choosing, including directly to hotel rooms. Stores on the Strip sell "hemp" products, equivalent in intoxication level (but not in regulatory control) to cannabis products.<sup>36</sup>

## ***“Unlicensed cannabis operators create unhealthy and unsafe market competition. ,,***

These restrictions do not stop tourists from accessing cannabis on the Strip; they just impede access to *legal* cannabis. This amounts to unrestricted competition for legal operators, harming the state's efforts to create a healthy, controlled marketplace.

Tourists are unknowingly engaging in illegal behaviors, putting them and the state's economy at risk. In our conversations with cannabis operators, gaming experts, and law enforcement, there was wide consensus that most Las Vegas visitors do not know the nuances of the law. They do not understand that cannabis cannot be legally delivered to hotel rooms and they do not understand the restrictions on where cannabis can be consumed.

Nevada does not currently educate tourists about what is legal and illegal. Without clear guidance, many likely engage in illegal transactions unintentionally, highlighting the need for better

<sup>35</sup> Dowling, Sean. "[More people killed over Marijuana in Las Vegas than ever before, police say.](#)" FOX 5. (Oct. 1, 2024). Last accessed Nov. 22, 2024.

<sup>36</sup> Black, Lester. "[Las Vegas tourists keep getting tricked by this 'total scam.'](#)" SF Gate. (Apr. 27, 2024). Last accessed Nov. 22, 2024.

education and enforcement to prevent unintentional violations of state law.

Unintentionally purchasing unlicensed cannabis puts consumers at risk. For a state that derives 43% of its gross domestic product from tourism,<sup>37</sup> safety risks for tourists could pose risks to the state's economy should a tourist be seriously hurt or killed.

## Policy Considerations

Conversations about enforcement against the unlicensed market are complicated by the history of cannabis laws and policing approaches. The “War on Drugs” of the 70s, 80s, and 90s relied on harsh criminalization to address individual drug use. Importantly, policing tactics targeting Black and brown communities with this criminalization have had devastating impacts on the lives of individuals and their communities. Stakeholders we spoke with were emphatic that Nevada's approach to the unlicensed market should avoid re-criminalizing individuals and minor intra-community transactions.

***“Unintentionally purchasing unlicensed cannabis puts consumers at risk. ,,”***

Enforcement and education are equally required to address unlicensed activity:

- **Enforcement Addresses Supply** — It makes it risky and undesirable to operate as an unlicensed seller or to form and participate in an unlicensed business network.
- **Education Addresses Demand** — It helps change buying behaviors and redirects consumers toward licensed sources.

Education is proactive, because it addresses the unwanted behaviors before they start. It lessens vulnerabilities, particularly for unknowing tourists.

There are strong reasons that consumers should choose licensed sources over unlicensed sources. The licensed cannabis supply chain is regulated, products meet basic quality standards, labeling is accurate, and security measures protect workers and customers. Education would empower consumers to make informed choices about where they buy and use cannabis, reducing demand for unlicensed products.

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<sup>37</sup> Nevada Resort Association. [“Nevada's Tourism Industry Generates Nearly \\$91 Billion in Statewide Economic Activity in 2022.”](#) Press Release. (Apr. 21, 2023).

## Specific Recommendations

### **Recommendation 1: Develop a comprehensive, concerted strategy to enforce against the unlicensed market.**

There is no silver bullet that will eliminate the unlicensed cannabis market, but its size and impacts can be mitigated, as seen through the efforts in other states. A strategic plan is needed to address the various ways that unlicensed activity manifests and impacts different parts of the state.

A comprehensive, concerted strategy is one that uses:

- Administration and Participation
  - Designates a specific state agency to lead and coordinate enforcement efforts and be accountable for outcomes
  - Includes participation and close coordination of multiple agencies at both the state and local level, including the CCB, Department of Public Safety, Attorney General's Office, and Department of Taxation
- Targets and Tactics
  - Identifies and describes the specific types of unlicensed operations that will be addressed
  - Defines which enforcement strategies will be used for each type of unlicensed operation
  - Utilizes a range of tactics proportional and appropriate for the unlicensed behavior, including code enforcement, tax penalties, civil fines, and criminal charges
  - Reserves criminal penalties for the most egregious activity (i.e., large-scale, well-organized networks)

As previously noted, stakeholder viewpoints differ on whether the DPS or the CCB should serve as the lead agency for state enforcement efforts. This report does not include a recommendation either way. The CCB seems like a natural and obvious fit given its expertise in cannabis businesses, but, in the past, it has not been mandated or funded in a manner that would allow it to effectively pursue sanctions against illegal market operators.

States across the U.S. have taken different approaches; some embed specialized law enforcement functions within their cannabis agency, while others utilize existing law enforcement agencies, supported closely by the cannabis agency. There are potential benefits and tradeoffs with either decision, but ultimately both approaches can work.

As the legislature considers which state agency will serve as lead, we offer the following assessment of current capacities and potential benefits or hurdles of having either agency lead state enforcement efforts:

- The **DPS** is currently the lead investigative agency tasked with enforcing controlled substances laws within the State of Nevada.<sup>38</sup> They have existing authority for investigations involving controlled substances.<sup>39</sup>

| POTENTIAL BENEFITS   | POTENTIAL HURDLES   |
|--|---|
| <p>Cannabis enforcement could benefit from the DPS’s existing resources and their relationships across law enforcement agencies at the local, state, and federal levels. They have experience and expertise addressing unlicensed drug networks.</p> | <p>The DPS’s current cannabis operations focus primarily on large-scale illegal cultivation and cross-state trafficking. To sufficiently address the full breadth of unlicensed cannabis activity, they must develop strategies and infrastructure to pursue unlicensed sales as well. This will likely require close partnerships with local law enforcement, including Las Vegas Metro, who have a strong understanding of the characteristics of unlicensed sales.</p> |

- The **CCB** is currently the lead regulating agency for licensed cannabis activity in the State of Nevada. They implement strict regulation of all businesses, employees, and production practices.<sup>40</sup>

| POTENTIAL BENEFITS  | POTENTIAL HURDLES  |
|---|--|
| <p>No other agency knows more about Nevada’s cannabis laws than the CCB. It works closely with local governments and the Nevada Attorney General’s Office to implement the law. The CCB’s nimble structure and knowledge of what’s legal and illegal would be particularly helpful for fast-moving or nuanced investigations, such as might be encountered with unlicensed sales.</p> | <p>The CCB is not a law enforcement agency and does not currently have authority to address criminal matters. Adding this capacity would likely require additional authorization and time to develop the infrastructure needed for investigations and enforcement.</p> |

Whether the DPS or the CCB is ultimately named as lead agency, each should be involved in addressing the unlicensed cannabis market.

It is our understanding that, ahead of the upcoming 2025 legislative session, certain measures

38 Nevada State Police Investigation Division. “[Investigative Units](#).” Last accessed Nov. 22, 2024.

39 Nevada State Police Investigation Division. “[Marijuana Eradication](#).” Last accessed Nov. 22, 2024.

40 Nevada Cannabis Compliance Board. “[Mission Statement and Guiding Principles](#).” Last accessed Nov. 22, 2024.

are being considered to address one or more aspects of the illegal market. As this and other proposals are considered, we encourage the legislature to consider the following questions:

- What types of illegal market activity impact Nevada the most?
- Which of these illegal activities should be prioritized for enforcement?
- How should each type of activity be addressed? (i.e., civil, criminal, or other)
- Which agency or agencies should be responsible for leading state enforcement efforts?
- Which agencies should provide support and assistance? To what degree should enforcement against the unlicensed market be a priority for each participating agency?
- What goals and outcomes should the state’s enforcement efforts aim to achieve?
- How will success be measured and reported back to the legislature?

## **Recommendation 2: Strengthen the Cannabis Compliance Board’s seizure and civil fine authority.**

In 2023, the Nevada Legislature provided the CCB with expanded authority to address unlicensed cannabis activities through Senate Bill 328,<sup>41</sup> including authorization to:

- Seize and destroy cannabis and cannabis products
- Establish and impose administrative fines or civil penalties

However, the CCB has not been able to effectively deploy these tools because of other limitations and requirements. Under Chapter 179 of NRS there are law enforcement and due process requirements with which the CCB cannot reasonably comply in order to conduct proper search and seizure. In addition, without a clear prosecutorial pathway, seizure—even of an undisputed unlicensed product—is only viable in limited cases.

Other states have addressed this issue by creating allowances for the immediate destruction of cannabis found on an unlicensed site. In other words, as long as the site where the cannabis is discovered is unlicensed, forfeiture proceedings and storage are not required. These laws typically preserve due process through basic collection of evidence and/or requiring affidavits showcasing this evidence to be filed with the court.

Additionally, the CCB has faced barriers utilizing its civil fine authority, because the agency doesn’t have subpoena powers over the unlicensed market. The Nevada Legislature should remedy this and provide the CCB with the necessary authorities over the unlicensed market needed to effectuate this power.

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<sup>41</sup> S.B. 328, 82nd Leg., Reg. Sess. (Nev. 2023).

### **Recommendation 3: Provide the Department of Taxation with authority to collect taxes on unlicensed cannabis sales.**

Central to Nevada’s cannabis legalization initiative was the ability to tax cannabis products and collect the proceeds for the benefit of residents. These taxes should apply regardless of whether the cannabis is produced and sold legally or illegally.

Nevada should ensure that taxation codes are written broadly enough to capture those engaging without a license and provide the Department of Taxation with authority to pursue collection and penalties from unlicensed operators. This would expand the state’s capability and tools for addressing illegal activity and create a strong disincentive for unlicensed behaviors. It also could result in additional revenues that would benefit state residents.

### **Recommendation 4: Expand cannabis advertising restrictions to apply to hemp.**

Nevada State law restricts cannabis advertising to limit exposure and attractiveness to children. However, these laws only apply to advertising placed by licensed businesses. They do not apply to out-of-state brand owners or hemp companies.

To date, when issues have arisen with billboards and other public advertising, the CCB has contacted the advertiser directly and requested correction. Most have willingly complied and made the necessary modifications. But, if a company not subject to these laws were to advertise intoxicating hemp products in a problematic way and refuse to comply, the CCB would not have recourse.

This does not seem aligned with the Nevada Legislature’s intention for a tightly controlled marketplace. Expanding these advertising provisions to all those who market intoxicating cannabinoid products—whether cannabis or hemp, licensed or not—would better reduce the potential public harms and ensure a level playing field for all advertising.

## Recommendation 5: Broaden consumer access to regulated products.

**Expanding Licensed Cannabis Delivery:** When Nevada legalized medical cannabis in 2013, delivery to consumers was not allowed, which is consistent with a medication model where prescriptions are obtained at a pharmacy. In 2017, when the Department of Taxation drafted and adopted regulations governing adult-use cannabis, Director Deonne Contine initially proposed that adult-use cannabis delivery would be prohibited. Director Contine relented on this prohibition, but limited the deliveries to private residences. In the 10 years since medical cannabis was legalized, and the seven years since adult-use was legalized, there have been no significant public health or safety incidents related to legal cannabis transportation or delivery to consumers.

The issue of delivery is inexorably linked to the illegal market. One compelling reason to expand delivery is that illegal sales are commonly conducted through delivery sources found on social media platforms.<sup>42</sup> This component of the market has been allowed to flourish in the absence of legal delivery to locations (other than to private residences) and due to lack of awareness as to whether a source is legal or illegal.<sup>43 44</sup>

Nevada's cannabis industry has demonstrated that it is able to conduct the transportation and sale of cannabis in a safe and secure manner. Not only has there been no significant issue with cannabis delivery to consumers, but there are hundreds, if not thousands, of trips performed each day in the distribution of cannabis. Nevada was smart to implement cannabis legalization incrementally but should now reflect on the lack of public safety concerns created by expanding delivery as well as the opportunity to allow the legal market to supplant illegal, unsafe options.

To expand consumer access to the regulated market, we recommend:

- Increasing the amount of cannabis that can be delivered in a single trip. Increasing this amount from 5 ounces to 12.5 ounces would mirror the increase in purchase limits (1 to 2.5 ounces) that went into effect in early 2024. However, higher limits should not be out of the question, given that other states have allowed significantly more to be carried in a delivery vehicle without issue.
- Expanding delivery. Allow delivery to short-term "weekly" rentals and mobile home communities and consider allowing delivery to certain non-gaming commercial properties.

42 Rachel Lermen, "[How the marijuana 'green rush' fell apart.](#)" Washington Post, Dec. 30, 2022. Last accessed Nov. 22, 2024.

43 Ryan Matthey, "[Illegal Las Vegas delivery services, federal scheduling obstacles to budding Nevada Cannabis Industry.](#)" KLAS (2023). Last accessed Nov. 22, 2024.

44 Christian Richey, "[Instagram is the new neighborhood pot dealer.](#)" Bloomberg.com (2022) Last accessed Nov. 22, 2024.



# **Fostering a Healthy, Sustainable Regulated Market**

## **Issue Overview**

Nevada's cannabis policy goals have morphed with its evolution in regulatory approach and governing agency. When medical cannabis sales were legalized in 2013, Nevada pulled inspiration from Arizona's pharmacy model as well as from Nevada's gaming industry.<sup>45</sup> In 2016, voters passed the Ballot Initiative to Regulate Marijuana like Alcohol. In 2019, the Nevada Legislature created the CCB, modeled after Nevada's gaming regulatory framework. In 2023, the Nevada Legislature made changes that appeared to diverge, at least moderately, from the gaming approach.<sup>46</sup>

Cannabis's classification as a Schedule I drug results in hefty federal tax burdens. IRS Code 280E prevents cannabis businesses from taking standard business deductions on their taxes, resulting in federal effective tax rates as high as 70%. This inability to deduct expenses magnifies the cost of regulation and compliance.

Federal prohibition of cannabis also creates barriers for accessing financial services. This includes:

- Limited access to banking
- High fees for those banks that will service cannabis
- Limited insurance coverage to hedge against potential losses
- Lack of access to capital
- Exorbitant federal tax rates

Investment in the industry has also been chilled. Traditional loans, distributed by banks, are not available. Businesses have turned to personal networks (friends and family) or private investment (cash exchanged for equity) to raise funds. At times, these limitations and the need for capital have exposed businesses to predatory lending and investment agreements. Predatory agreements are particularly pervasive and damaging for social equity operators.

These factors are outside of the state's ability to change, but these factors should be considered when developing policy related to the cannabis industry.

The state can control the regulatory burdens it places on businesses. Cannabis regulations were initially written in an environment where avoiding federal intervention was a top priority and few states had the experience of regulating. As a result, there are regulations in place today that unduly burden good operators. Some examples are provided immediately below, in the recommendations section.

<sup>45</sup> Nevada Senate Committee on Judiciary Hearing, 77th Session, around 10:20:00, (March 29, 2013)

<sup>46</sup> S.B. 195, 82d Leg., Reg. Sess. (Nev. 2023); S.B. 328, 82d Leg., Reg. Sess. (Nev. 2023).

Nevada’s cannabis statute includes a preamble describing broad legislative intention—a policy roadmap lawmakers and regulators should follow in considering new and existing cannabis policies. This preamble, NRS 678A.005, was adopted in 2019 and amended in 2023.<sup>47</sup> Lawmakers and regulators should consistently refer to the preamble and adhere to its stated policy goals, similar to the way the gaming industry adheres to the stated policy goals under NRS 463.0129. The preamble should be a guiding force to ensure policy goals are clear, consistent, and provide context to regulators. If the preamble does not reflect the state’s policy goals, it should be amended, but not disregarded.

## Specific Recommendations

### **Recommendation 6: Reduce known regulatory burdens on businesses.**

In several of our stakeholder discussions, operators and advocates expressed frustration with what they described as unnecessarily burdensome requirements. When pressed for examples, several issues raised resonated with us as both negatively impactful and solvable, the most prominent of which relates to **Agent Cards**.

All employees, contractors, volunteers, owners, officers, and board members of a cannabis business must register with the CCB for an Agent Card. Agent Cards are issued after an application process and background check.

Currently, those required to hold a card must obtain one for every category or role they intend to work in, and each card requires a separate fee. There are cards for:

- Production (extraction and product manufacturing)
- Cultivation
- Dispensary/retail store
- Distribution
- Laboratory
- Contractor

We recommend:

- Switching to a single, universal Agent Card

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<sup>47</sup> Layke Martin, “[Changes to Cannabis Laws in Nevada’s 82nd Legislative Session](#),” Nevada Lawyer, (Apr. 2024). Last accessed Nov. 22, 2024.

- Allowing businesses to retain photocopies of employee cards, made readily available to inspectors as needed, rather than requiring employees to maintain physical possession of their cards

Other, non-exhaustive, examples of regulatory burdens include the following:

- **OSHA Training** — OSHA training is mandatory for all cannabis employees, regardless of facility type. Some license types, such as cultivation and manufacturing, benefit greatly from mandatory training about occupational hazards and protections. But dispensary workers, who perform functions equivalent to other retail workers, rarely encounter such hazards. Retaining supervisory training may be beneficial, but requiring training for each individual retail worker seems excessive, particularly when turnover for frontline retail workers (regardless of industry) is typically high.
- **Visitor Logs** — The name of each person entering a licensed cannabis premises must be recorded on detailed visitor logs. This is a logical requirement for non-public licensees operating under a system which relies on strict control of inventory. However, this duplicates existing requirements when applied to cannabis retailers.
- **Process to Transfer Tax Liability** — In our conversations with stakeholders, cannabis operators flagged several challenges with the structure and implementation of the wholesale tax. As one example: The wholesale tax must be remitted to the Department of Taxation within 30 days of the sale of cannabis. If a cultivator is not able to collect on due to non-payment, the cultivator is still liable for the tax owed and thus they pay tax on a transaction that was not completed. This is a particularly prevalent issue right now as the market is capital constrained and carrying high debt loads. This disconnect between the person owing the tax and the person remitting the tax places undue burden on producers. The legislature should consider adopting a process to transfer tax obligations to the owing party, reconcile these non-payments, or otherwise improve the cannabis tax policy framework.

Nevada must identify areas, such as these, where rules can be relaxed or removed without compromising public safety, allowing the industry to operate more efficiently and contribute more effectively to the state's economy. This reflection is crucial to fostering a balanced approach that maintains safety while encouraging growth and innovation within the cannabis sector.

## Creating Opportunities for Social Equity

### Issue Overview

In his 2021 statement on drug policy priorities President Joseph Biden took note of the “systemic inequities in our nation’s approach to criminal justice and prevention, treatment and recovery.”<sup>48</sup> Recognizing these systemic inequities and outlining a commitment to new drug policy at the state and national levels remains of significant importance in the cannabis conversation.

When Nevada initially legalized medical cannabis sales in 2013, the focus was on bringing an end to the criminalization of medical cannabis use, collecting tax revenue on sales that were occurring on the illegal market, and allowing patients access to safe, tested medicine.<sup>49</sup> At that time, and during the process to legalize and implement adult-use sales, there was not yet the focus on and advocacy for social equity that was introduced in the 2019 legislative session and in subsequent sessions.<sup>50</sup>

***“Recognizing these systemic inequities and outlining a commitment to new drug policy at the state and national levels remains of significant importance in the cannabis conversation. ,”***

In 2019, Senator Dallas Harris introduced a bill that would have required the “Nevada Commission on Minority Affairs to conduct a study relating to disparities and unlawful discrimination in the licensure of marijuana establishments and medical marijuana establishments.”<sup>50</sup> In 2021, the Nevada legislature passed a bill that first used the term “social equity” relating to cannabis and created a social equity category for awarding cannabis consumption lounge licenses.<sup>51</sup> In addition, the legislature passed record sealing measures and, in 2023, Senator Harris sponsored a

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48 Office of the President of the United States of America. [“The Biden-Harris Administration’s Statement of Drug Policy Priorities for Year One.”](#) Office of National Drug Control Policy. (Mar. 2021).

49 Tick Segerblom, [“SB374 Presentation,”](#) Nev. Senate Committee on Judiciary, 77th Leg., Reg. Sess. Around 6:06:54, (2013).

50 S.B. 346, 80th Leg., Reg. Sess. (Nev. 2019).

51 A.B. 341, 81st Leg., Reg. Sess. (Nev. 2021).

bill that allowed persons with “excluded felony” offenses on their record—preventing them from working in the cannabis industry—to petition for a waiver of this exclusion.

## Why This is Important

The War on Drugs had devastating impacts on individuals and communities. It impeded economic opportunity and harmed health outcomes, sometimes across multiple generations. Policing disproportionately impacted minority and low-income communities. Long-term effects remain concentrated in these communities. Targeted investments to repair the harms of the War on Drugs would create opportunity and improve outcomes.

## Policy Considerations

Nevada can look to efforts in other states and jurisdictions. Cannabis social equity is largely still experimental policy. Many states have found success, but none has created a comprehensive pathway of best practices. There is still significant room for states to try new approaches and for one or more states to emerge as a standard bearer.

## Specific Recommendations

### **Recommendation 7: Create a Social Equity Liaison within the Cannabis Compliance Board.**

It is challenging for any business to navigate a complex regulatory environment, but it can be more challenging for social equity operators. If Nevada wishes to provide equitable and unique market opportunities for those affected by the War on Drugs, it must provide technical and connective assistance to those businesses.

A Social Equity Liaison within the CCB would provide social equity applicants and businesses with a direct point of contact for someone who:

- Can help them navigate licensing processes
- Understands regulatory structures
- Ensures they receive information about changes to regulatory requirements

A liaison could also provide regular reports to both the CCB and legislature about unique concerns and barriers faced by social equity businesses, providing ways to continuously improve approaches over time.

## **Recommendation 8: Allow social equity businesses to sell their licenses.**

For as long as cannabis remains illegal at the federal level, it will be challenging for cannabis businesses to achieve success, even for those with well capitalized networks and business experience. For a social equity operator, success can, at times, be even more elusive.

Nevada adopted laws authorizing cannabis consumption lounges in 2021. After a long and robust public process to develop rules, and for licensees to build out compliant locations, the first lounges opened in early 2024. Several are owned by social equity businesses.

Already, it has become clear that profitability will not be achieved for many years. Lounges stand to benefit significantly from Nevada's tourism economy, but this might take a decade to realize. In the meantime, some social equity operators are losing money, defeating the purpose of creating the licensing opportunity in the first place.

The restriction to prohibit sales of social equity licenses was well-intentioned but is not achieving its goal. Allowing social equity consumption lounge operators to sell their licenses ahead of the mandatory three-year waiting period would allow those who are losing significant money to salvage some of their investment, or at least avoid losing more money, which is often personal savings as traditional loan opportunities are not available.

## **Recommendation 9: Allow social equity operators to enter into joint venture agreements or other arrangements that create market access.**

One potential opportunity to create social equity in Nevada's cannabis industry includes codifying a pathway for small businesses to work with licensed operations to introduce their products into the legal channels of distribution. This pathway would remove the prohibitive costs associated with owning and operating a license.

For example, this pathway could be realized by developing a joint venture agreement with profit sharing opportunities. This is already technically possible, but it should be codified to raise awareness, ensure confidence, and solidify the availability of this opportunity. Another pathway to inclusion could include an opportunity for licensed facilities to allow small businesses to oper-



ate under their license as well as affording these small businesses an exemption on excise taxes that would be imposed on their products, which would allow them to be priced competitively

## **Recommendation 10: Support pilot programs for social equity initiatives.**

We spoke with several state and national experts on cannabis equity. All agreed that, by far, the most impactful and innovative way that Nevada could approach social equity would be to fund pilot programs to facilitate unique approaches tailored to the resources and needs of the local community.

This could be structured as a grant program with:

- Distribution of grants made by an entity with expertise to review and make decisions about innovative ideas (preferably a nonprofit, public-private partnership or university)
- Basic criteria defined by the state, including:
  - What “innovation” means from a social justice perspective
  - Minimum grant standards
- Multiple eligible entity types to create room for a wide array of approaches (including businesses, nonprofits, and local government)

These one-off investments could propel unique opportunities where resources (people, places, values) happen to already align. For example, it could spawn incubators or commercial kitchens. Innovation grants offer an opportunity for Nevada to add value to this public policy area and create a model that could be adopted by other states or a federal agency.





## Preparing for a National Cannabis Market

### Issue Overview

Across the country, cannabis markets operate entirely intrastate—that is, all functions of the cannabis supply chain (cultivation, manufacturing, testing, distribution, and sales) must be performed within each state’s borders. As discussed in the introduction, this construct was created in response to a now-rescinded 2013 DOJ memo that outlined federal expectations for state cannabis markets.

It is only a matter of time until these artificial walls around each state’s cannabis market fall, and a national, *interstate* market emerges. This may begin as an experiment among a few states initially engaging with each other and testing the possibility of federal enforcement against this activity, just as the initial legalization of cannabis began at the state level. This change may happen in a myriad of ways and may be gradual or sudden, depending on the mechanism that triggers it:

- Through federal action:
  - Administrative action, such as through rescheduling
  - Congressional action, such as descheduling (similar to hemp) or descheduling

and regulating (as has been previously proposed)

- Through state action:
  - Agreements between consenting states that facilitate market activity between businesses in those states
- Through court action:
  - Overturning intrastate markets (unlikely, but currently being pursued in courts)

**Federal Action:** The shift to interstate commerce would likely spur significant changes to regulatory oversight. Under the current constructs, state agencies take the lead in regulating cannabis markets. Federal agencies are largely absent and provide little to no expertise or support. If cannabis were descheduled or federally legalized, federal agencies would likely become more engaged in regulating cannabis.

The nature and extent to which federal agencies eventually participate in regulating cannabis markets is largely dependent on the specific mechanism that triggers a national market.

If Congress chooses to regulate cannabis at the federal level, one or more federal agencies will become the chief cannabis regulator and state cannabis agencies will likely play more supportive roles. Among other things, this could:

- Create more uniform national standards
- Significantly disrupt limited licensure frameworks, particularly for producers (cultivators and product manufacturers) that could locate anywhere in the country
- Require restructuring of state agency resources, statutory frameworks and regulation

If Congress chooses to retain state-level regulatory controls, the role of federal agencies may become more supportive in nature. This could:

- Create more variation in requirements across markets, increasing costs for businesses that operate across borders
- Create disparities in quality between states

Many state regulators and national policy experts believe federal legalization of cannabis would be best served by a balance of federal and state market oversight. Federal standards could create more uniformity, nationwide, in product and production safety and alleviate concerns about inconsistencies in oversight across states. State standards could focus on licensing suitability, the nature of public-facing retail and hospitality establishments, and other regionally important market attributes.

**State Action:** Absent federal action, states themselves could open pathways to interstate commerce. State legislatures in Oregon (2019), California (2022) and Washington (2023) have adopted nearly identical laws authorizing trade between consenting legalized states. Under these frameworks, states would enter into agreements with each other authorizing distribution across state borders. None of these three states have entered into an interstate agreement with another state yet.

**Court Action:** Even if no action is taken at the federal or state levels, interstate commerce may still come into force through court decision. This would be the most disruptive and sudden of the potential pathways.

The U.S. Constitution's Commerce Clause gives Congress the power to regulate commerce between states, with foreign nations and with tribes. The Dormant Commerce Clause (DCC) is a long-standing legal interpretation of this constitutional provision. It expresses that because this power is given to Congress, not states, states cannot adopt protectionist policies that impede a national market.<sup>52</sup> In short, state laws that restrict interstate commerce or discriminate against out-of-state businesses can be found unconstitutional.

Ultimately, much is unknown about how a national cannabis market may come to be. Though several possible pathways have been suggested, other unexpected pathways are also possible.

## Why This is Important

The transition to a national marketplace would dramatically reshape how cannabis is regulated, particularly if it occurs through congressional or court action. Congressional pathways would create participation from federal agencies that have not, to date, been engaged in regulatory oversight.

Federal participation offers potential benefits, including uniformity in:

- Testing to ensure safety
- Labeling to inform consumers
- Packaging to protect product integrity
- Manufacturing practices to ensure product quality and safety

Federal agencies are also well-positioned to collect and analyze nationwide data or administer public awareness campaigns on topics of national importance including driving under the influence of drugs (DUID).

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<sup>52</sup> U.S. Const. art. I, § 8, cl3; U.S. Congress. "[ArtI.S8.C3.7.1 Overview of the Dormant Commerce Clause.](#)" Constitution Annotated. Last accessed Nov. 22, 2024.

It should be expected that federal agency involvement will include additional product or sales taxation, likely through an excise tax. As Nevada continues to refine its own taxation approach, it should remain aware that any state cannabis tax will not only stack with local taxes but, in the future, with a federal tax.

The shift from state markets to a national market is likely to result in winners and losers. In Nevada, the businesses that stand to lose the most from a transition to a national market are cultivators and product manufacturers. Cultivators will likely struggle most to compete against growers in states more suitable to outdoor farming of cannabis, such as California, Oregon, and Washington. Economists have predicted that the opening of a national market would depress prices for flower and other raw inputs.<sup>53</sup> Cultivators who are not sufficiently hardened to weather temporary price adjustments or have not achieved sufficient efficiency will be most impacted.

Opportunities for cultivators and producers to export goods out of state and reach broader groups of consumers may soften some of these impacts. But these opportunities will come with significant price competition and will benefit certain states and operators significantly more than others.

In Nevada, retailers potentially stand to gain the most from the transition to a national market. With access to flower and products from other states, they may be able to serve a wider array of consumer demand.

In general, business operations would shift dramatically. Businesses that wish to compete on a national scale would need to develop relationships with buyers, suppliers, and distributors as well as expand marketing strategies and tactics. Local, craft markets could emerge, potentially offering some opportunity for those businesses that wish to remain focused only on operations within Nevada. In our discussions with stakeholders, we found that most operators do not believe interstate commerce is imminent, and they feel confident their business could be one of the craft operations that would survive.

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53 Goldstein, Robin and Sambucci, Olena. [“Overview of the 2024 Nevada Cannabis Economy.”](#) Prepared by University of California Davis Cannabis Economics Group for University of Nevada Las Vegas, Cannabis Policy Institute. (Dec. 2024).

## Specific Recommendations

### **Recommendation 11: Continue and expand conversations about potential federal policy changes and how Nevada can best respond.**

Nevada has already begun discussing how best to prepare for and respond to potential federal policy changes. The CCB is a member of the national Cannabis Regulators Association (CANN-RA), which facilitates conversations between state cannabis regulators and federal agencies on state and federal policy issues. In February 2024, in response to Senate Bill 277, the CAC issued a report describing the potential implications of descheduling or rescheduling cannabis.

Nevada's conversations should continue these efforts to prepare for the impact of federal legalization and national markets. They should consider:

- The timing and ways in which a transition to a national market may occur
- How to minimize impact to Nevada-based businesses
- How to maintain product safety and quality standards
- Ways in which Nevada may need to adapt, based on what ultimately occurs

Nevada has made significant efforts to center product safety and quality standards in its regulatory requirements. Based on conversations with stakeholders and state regulators, this should continue to be a key goal for market oversight. Therefore, preparatory conversations should consider:

Nevada inspects producers multiple times per year, whereas other states inspect every few years.

#### ***How will differences in producer oversight affect product quality and consumer safety in Nevada?***

Nevada conducts more stringent oversight of testing laboratories than elsewhere in the country.

#### ***To what extent could Nevada rely on regulatory testing that occurs out of state?***

Nevada should also consider the potential implications of a federal tax and nationalized market on its own cannabis tax structure. Nevada currently charges two cannabis-specific taxes:



- A Retail Cannabis Tax of 10% of the sale price, charged at the time of sale
- A Wholesale Cannabis Tax of 15% of the fair market value, charged at the first wholesale sale

The imposition of a wholesale tax may penalize Nevada businesses operating under a national cannabis market with cannabis flower and products imported from producers based in other states. If a federal tax is imposed, states may need to assess how their taxes contribute to cumulative costs or compare to other states in a competitive landscape.

The state should also evaluate potential ways to mitigate the risks (for businesses and the state economy) that may result from the transition to a national marketplace, including:

- Supporting a more gradual entry into a national market to ease the transition for businesses (such as through state-to-state agreements)
- Policies that allow businesses to diversify and tap into existing economic drivers, such as tourism and hospitality
- Policies that facilitate craft marketplaces, including producer-consumer relationships

Ultimately, Nevada should begin proactive planning about how to best protect its interests when the cannabis marketplace becomes nationalized.

## **Recommendation 12: Do not implement policy changes prematurely.**

While we believe Nevada should begin evaluating its framework, needs, and potential responses to federal policy change, we strongly recommend that the state avoid implementing changes preemptively.

Interstate commerce could emerge in a myriad of ways. Each of those ways will look different and Nevada's best response will also be different. Until we know the specific mechanism for interstate commerce, preemptive policy changes are premature. They could even be damaging and/or costly if Nevada bases them on incorrect assumptions about how the federal framework will eventually look.



## **The Future of Cannabis and Gaming**

### **Issue Overview**

Nevada legalized and regulates both gaming and cannabis, but, by law, the two industries are strictly separated. The Nevada Gaming Control Board (GCB) and Nevada Gaming Commission have created clear boundaries around gaming that excludes intermingling of the industries, investment, or participation in cannabis:

- In 2014, the GCB issued a notice regarding involvement in the cannabis industry stating that “the [GCB] believes that any such investment or involvement by gaming licensees or applicants would tend to reflect discredit upon gaming in the State of Nevada.”<sup>54</sup>
- In 2017, the Nevada Gaming Commission adopted a resolution prohibiting gaming licenses from participating in the cannabis industry.<sup>55 56</sup>
- Also in 2017, former Nevada Gaming Commission Chair Tony Alamo went as far as to

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54 Terry Johnson, [Notice to Licensees #2014-39](#), Gaming Control Board/Gaming Commission (2014). Last accessed Nov. 22, 2024.

55 Nevada Gaming Control Board, Exhibit A, [Meeting Notice and Agenda September 21, 2017](#). Last accessed Nov. 22, 2024.

56 Segerblom, Tick and Saab, Krystal, *Gaming and Cannabis in Nevada: Are We Betting On Green?* p. 70, UNLV Gaming Law Journal: Vol. 10: Iss. 1, Article 4. (2020).



state that cannabis could damage the integrity of the gaming industry and Nevada.<sup>57</sup>

- In 2018, the Nevada Gaming Policy Committee (GPC) issued a resolution advising against any involvement by gaming licensees with cannabis businesses, including contracting and landlord agreements.<sup>58</sup>

The separation of gaming and cannabis is codified by laws such as NRS 678B.210(3) and NRS 678B.250(3), both of which mandate a 1,500-foot distance between cannabis businesses and gaming establishments, as well as by local ordinances such as Clark County, Nevada Code of Ordinances Sec. 8.65.140, which prohibits cannabis delivery to gaming areas, including the Las Vegas Strip Corridor. The CCB also issued a regulation stating that cannabis delivery to gaming licensees is prohibited under Nevada Cannabis Compliance Regulations (NCCR) 7.050(3).<sup>59</sup>

Until recently, there has been little public or legal discourse on the prohibitions between gaming and cannabis. Most of the prohibitions are accepted as reasonable, due to the Schedule I status of cannabis. Several recent developments have prompted discussion of the separation and whether there can, or should, be an examination of the separation and, potentially, a plan for measured and thoughtful integration, given changing attitudes and federal policies toward cannabis legalization. Those recent events include the federal government's efforts to reschedule cannabis, concerns about illegal cannabis sales on the Strip corridor, and a bill draft request addressing the separations between gaming and cannabis.<sup>60</sup>

## Why This is Important

In 2017, GCB chair Tony Alamo said, "This is the marijuana industry. This is the gaming industry. And the two shall never meet." Despite this and other similar proclamations, cannabis and gaming have already begun intersecting in numerous ways. As one gaming expert told us, "People who say it isn't happening already on casino property are entirely misinformed."

It is not just that visitors are using cannabis publicly on the Strip or on the casino floor, although both of those things are happening. Integration between cannabis and gaming is already happening, but discourse on how to eventually legally and appropriately merge the two industries lags behind.

57 Nathan O'Neal, [Nevada Gaming Commission Discusses Marijuana on Casino Properties](#), KSNV News 3 Las Vegas. (Aug. 24, 2017). Last accessed Nov. 22, 2024.

58 Marie Bell, [Notice # 2018-39 Adoption of Resolution by the Nevada Gaming Policy Committee Regarding Marijuana and Gaming](#), Nevada Gaming Policy Committee (2018). Last accessed Nov. 22, 2024.

59 NCCR 7.050(3) (A cannabis sales facility shall not deliver cannabis or cannabis products to a consumer at any location that has been issued a gaming license, as defined in NRS 463.0159).

60 Michalski, Dan. "[Las Vegas Assemblyman Planning Bill to Legalize Marijuana Deliveries to the Strip](#)." Casinos.com. (Aug. 23, 2024). Last accessed Nov. 22, 2024.

In addition, economic opportunities are being missed based on misunderstandings about the federal status of cannabis rather than on the actual law. One example is the recent difficulty a cannabis business conference experienced in booking hospitality suites where cannabis consumption would not be permitted. The properties were concerned that renting hospitality suites to a cannabis convention business could result in GCB discipline, but this activity is definitively allowed.

***“...economic opportunities are being missed based on misunderstandings about the federal status of cannabis rather than on the actual law. ,,***

This reluctance to engage is likely driven by apprehension about doing, or talking about, an activity that could result in federal enforcement. The fear of federal enforcement was raised and emphasized in every conversation we had with gaming experts. Because they handle large quantities of cash, gaming properties are classified as financial institutions under federal law, subject to numerous criminal and civil laws that aim to prevent money laundering and financial impropriety.<sup>61</sup> Many federal agencies have broad enforcement authority over gaming, including the ability to seize gaming machines or other critical infrastructure and shut down operations during an investigation. Similar powers exist within the GCB, with an added risk that any license discipline, including suspension or revocation, could forever affect that institution’s ability to obtain a gaming license in Nevada or other gaming jurisdictions.

One expert described the gaming industry’s mindset as, “This is all a privilege, and it can all go away with one misstep.”

In this context, it’s not surprising that public debate is not robust. However, avoiding these discussions does not eliminate risk; it may leave Nevada and its gaming industry ill-equipped to respond to future changes or to capitalize on current opportunities.

Cannabis tourism is increasing, and Nevada is well positioned to benefit. An increasing number of Americans use cannabis and choose vacation destinations based on cannabis availability. A 2022 Harris Poll found that:

<sup>61</sup> Cohen, Barak and Haggard, Marcus A. and Schafer, Jamie A. “[Mapping Future Enforcement in US Gaming Law Based on Recent UK Enforcement.](#)” Perkins Coie. (Jul. 11. 2023). Last accessed Nov. 22, 2024.

- 22% of Americans have chosen a travel destination based whether adult-use cannabis is allowed
- 30% of American adults 21 and older consider legal status of adult-use cannabis an important factor when choosing a vacation destination
  - Within this group, 50% of millennials consider cannabis an important factor

Nevada is well-positioned to capture this demand, given its extensive tourism infrastructure and its investment in creating unique, thoughtful cannabis consumption lounge policy. But, as we discuss elsewhere in the report, tourist access to the regulated cannabis market is currently limited.

In addition to showing an opportunity, trends also indicate a shift in consumer behaviors. As Americans increase their cannabis consumption, they are decreasing their alcohol consumption:

- More than two-thirds of people who use cannabis report cutting back on drinking.<sup>62</sup>
- More Americans now use cannabis on a daily or near daily frequency than alcohol.<sup>63</sup>

As more Americans decrease their alcohol use, it will be important for Nevada’s tourist economy to account for those changes.

## Specific Recommendations

**Recommendation 13: Request a report from the GCB and CCB about future pathways and eventual parameters for integration between cannabis and gaming.**

Nevada has deep pride in its gaming industry and refers to its policies and framework as being the “gold standard.” Gaming is strictly regulated in Nevada, and the gaming industry values compliance with the law. Nevada has reworked its cannabis laws in recent years to align more closely with gaming. The goal is to build and foster another gold standard industry predicated on integrity and strict, but fair, regulation.

This intentional alignment begins in the first sentences of each industry’s statutes. The preambles of Nevada state gaming laws and cannabis laws indicate that they are “vitaly important” and “significant” to the state’s economy, respectively. Given the importance and overlap of these two

<sup>62</sup> Azer, Vivien and Ma, Victor, and Cassidy, Seamus, et. al. “[Cannabis Beats Booze.](#)” TD Cowen, a division of TD Securities. (Jan. 3, 2024). Last accessed Nov. 22, 2024.

<sup>63</sup> Caulkins, Jonathan P. “[Changes in self-reported cannabis use in the United States from 1979 to 2022.](#)” *Addiction*. Volume 119, Issue 9, p. 1648-1652.

sectors, it is worth the state's time to explore what integration could look like, if federal law were to change. These discussions should include overlooked issues such as the proliferation of THC beverages derived from hemp, which multiple states and large companies believe are a federally legal form of intoxicating cannabis. As mentioned above, the 2018 Farm Bill removed hemp from the CSA.<sup>64</sup> In the years since, intoxicating hemp beverage sales have surged across the country. This and other cannabis and tourism opportunities should be discussed well before changes at the federal level are potentially imposed on Nevada.

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<sup>64</sup> Dempsey, Christina. "[A Primer on the Farm Bill.](#)" Cannabis Policy Lab, Through the Weeds, (Apr. 2, 2024). Last accessed Nov. 22, 2024.



## ***Grounding Policy in Research and Data***

### **Issue Overview**

The federal government collects and disseminates official statistics about most domestic industries, including production, employment, taxes, and other data. However, official statistics are largely unavailable for cannabis, because it is classified federally as a Schedule I drug. This makes it challenging to:

- Establish baseline measurements
- Assess policy outcomes
- Track market impacts over time

By contrast, significant amounts of cannabis industry data are collected at the state level.

In 2013, as states were legalizing adult-use cannabis, the DOJ instructed federal prosecutors to de-prioritize cannabis prosecution if states met eight conditions. One of these conditions, preventing cannabis from being diverted from the legal marketplace, led states to develop sophisticated systems to track the movement of cannabis throughout the supply chain.



These “track-and-trace” systems collect extensive data about the cannabis market, including:

- Plant counts, growth, and harvests
- Extraction and product manufacturing
- Testing
- Transport throughout the state
- Sales and tax collection

The lack of federal government statistics has created a groundswell of need for access to this state data.

In Nevada, this data is mostly available via public records request. However, the public records process can be slow, and the information provided is typically limited. This is particularly challenging for researchers seeking to understand, in real time, the composition and evolution of the market.

Scientific knowledge about cannabis and its effects has not kept pace with legalization and market development. This has led to an environment where, across the country, policy decisions must be made with limited evidence. We are starting to learn more about cannabis, but barriers to research continue to impede scientific understanding.

***“Scientific knowledge about cannabis and its effects has not kept pace with legalization and market development.”***

In 2022, the National Institutes of Health (NIH) surveyed researchers about interest in and barriers to conducting cannabis research.<sup>65</sup> Researchers identified lack of funding as the top barrier, as well as hurdles created by cannabis’ status as a Schedule I drug, including:

- Difficulty obtaining and maintaining DEA registration
- Requirements for handling Schedule I substances, including security and facility infrastructure
- Lack of existing studies and standard methods
- Inability to study cannabis that is currently available in state markets

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<sup>65</sup> U.S. National Institutes of Health. [“Request for Information \(RFI\): Investigators’ interests in and barriers to research studies on the health effects of cannabis and its constituents.”](#) Notice # NOT-AT-22-026. (Aug. 29, 2022).

Some states have invested in cannabis research both to inform policy development and in response to this funding need. Fifty percent of states that have legalized cannabis have adopted measures allocating funding for research.<sup>66</sup> The structure and amount of this funding varies significantly between states, but generally either involves:

- Direct allocations to an academic research institution
- Funding provided to researchers through a state-administered grant or other program

Most of these funding streams are drawn from cannabis tax revenues. Examples of state investments in cannabis research include:

- Arizona:<sup>67</sup>
  - Up to \$25 million in clinical trial research grants distributed over five years
- Illinois:<sup>68</sup>
  - 2% of cannabis tax revenues for research-related activities, including to fund a Cannabis Research Institute
- Minnesota:<sup>69</sup>
  - \$2.5 million annually to the University of Minnesota to fund a Center for Cannabis Research

## Specific Recommendations

### **Recommendation 14: Publish aggregated data on cannabis market activity and provide researchers access to data sets.**

Nevada is collecting robust market data that could provide unique insights for policy and public health. Businesses are compelled to submit detailed information daily about all functions of the cannabis market—every plant, every product, every test, every distribution path, and every sale.

Nevada’s track-and-trace provider, Metrc, describes its platform as facilitating “data collection on a massive scale” and describes the benefits of this data collection as informing “policy adjustments, [to] flag unusual discrepancies, [to] provide the impetus for new health measures, and [to] offer proof new initiatives are having the desired impact.”<sup>70</sup>

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66 Balla, Agnes and Boyle, Raymond and Dempsey, Christina. “State Funding for Cannabis Research: An Analysis of Funding Mechanisms and Levels American Journal of Public Health.” Manuscript submitted for publication. (Aug. 2024).

67 Arizona. “[Proposition 207](#).” 2020.

68 H.B. 1438, 101st Gen. Assemb., Reg. Sess. (Ill. 2019) ([Cannabis Regulation and Tax Act](#)), Pub. Act 101-0027.

69 [H.F. 100](#), 93rd Leg., Reg. Sess. (Minn. 2023).

70 Metrc. “[Track and trace technology](#).” Last accessed Nov. 22, 2024.



This data is certainly valuable, even more so because of limited evidence available elsewhere. However, its utility is limited by access. To truly gain insight from this resource, the data must be made available to the public and researchers.

**Public Access to Government Data:** The Nevada Legislature has already adopted policies requiring the CCB to publish data related to cannabis product testing. Cannabis testing is currently a challenging topic nationwide, with many states discovering fraud and manipulation in their testing schemes. There is no evidence of this type of behavior among Nevada laboratories, but publication of testing data could provide additional guards against misreporting.

For example, testing expert Yasha Kahn recently completed an analysis of anonymized testing data from multiple states.<sup>71</sup> He found that labs across the country routinely report cannabinoid content at levels 25% or higher than the actual content. Importantly, by comparing states to each other, he also found irregularities in reporting of yeast and mold.

Kahn described state testing data as “rich and untapped” and a “treasure trove of information that can reshape our understanding of cannabis products, the policies that govern them, and the quality control mechanisms in place.”<sup>72</sup> Publication of detailed, anonymized testing data could allow more experts to identify anomalies using sophisticated mathematical tools, thereby supporting effective regulatory controls.

***“...state testing data...[is a] treasure trove of information that can reshape our understanding of cannabis products... ,”***

Broader publication of market data, even if aggregated, could also provide businesses and investors with information to guide decisions. Many legal cannabis states already publish aggregated data, such as:

- Total monthly sales
- Sales by product category
- Average price per gram/unit

71 Roberts, Chris. “[Marijuana lab-testing analysis finds routine THC inflation, data manipulation.](#)” Marijuana Business Daily. (Nov. 28, 2023).

72 MCR Labs. “[Unveiling Cannabis Testing Data – Transparency, the key to a trustworthy industry.](#)” (Aug. 20, 2024).

- Total plant counts
- Quantities of harvested plants
- Number of tests and retests performed
- Average results of tests performed by product category
- Average failure rates for each testing category

Some states publish this type of aggregated data themselves, while others partner with academic institutions. For example, Colorado’s public data dashboard was developed and is maintained through a partnership with the University of Colorado Boulder.<sup>73</sup>

**Researcher Access to Government Data:** The State of Nevada collects extensive data about the cannabis market, but its utility is limited because it is not made available for research purposes.

Secondary analysis is a form of research in which existing data is examined for new insights. Government data is often provided to researchers for secondary analysis, maximizing the benefit of that data at minimal cost, compared to other forms of research.

***“The State of Nevada collects extensive data about the cannabis market, but its utility is limited because it is not made available for research purposes. ,,***

Some of these data sets may be available through the public records process, but as previously discussed, this process is not ideal for research. It takes time to request and receive data, and follow-up requests are often required. Importantly, not all information needed may be considered a “public” record.

State law already contemplates how to provide researchers with potentially sensitive or otherwise non-public information. Nevada classifies its state universities as government agencies, and cannabis statutes have explicit exemptions allowing the CCB to provide data to government agencies (NRS 678A.470). Additionally, data-sharing agreements, or other similar frameworks, could be used to resolve any concerns about security, privacy, or usage and describe mechanisms for transmitting data.

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<sup>73</sup> Colorado University Business Research Division. “[Colorado MED Dashboard](#).” Last accessed Nov. 22, 2024.

Researchers need access to more detailed underlying data sets to perform meaningful analysis; if given that access, Nevada policymakers and the scientific community could benefit greatly.

## **Recommendation 15: Fund research into key policy areas and impacts of legalization.**

As described above, half of state cannabis legalization measures include mechanisms to fund research, either through grants or direct funding to academic institutions. Nevada should consider doing the same: directing a portion of its cannabis tax revenue into higher education to support cannabis research.

State funding for cannabis research would be an investment in academic expertise and closer partnership between government and the scientific community. In a rapidly evolving policy arena, this would provide lawmakers with a trusted source of information to inform decision making.

The University of Nevada, Las Vegas has already contributed initial funding to establish the CPI as a resource for the state. The legislature could cement the institute's place as a hub for cannabis research in Nevada and its long-term future by providing an ongoing allocation from cannabis tax revenues.

In its first year in operation, the CPI engaged with researchers from the University of Nevada, Las Vegas, the University of Nevada, Reno, and universities across the United States across diverse disciplines, including law, business, psychology and sociology, health and medicine, tourism and gaming, and economics. These connections could foster studies of statewide impact on topics, such as:

- Regulation that maximizes benefits and minimizes harm
- Tourist demand and safety
- Youth prevention and protection
- Cannabis users and use patterns
- Economic development

Funding could also be used to expand the relevance and effectiveness of existing data collection. For example:

- International Cannabis Policy Study – An annual survey about cannabis and cannabis policies that began in 2018 and includes six countries.<sup>74</sup> Though every U.S. state is

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<sup>74</sup> University of Waterloo. "[International Cannabis Policy Survey](#)." Last accessed Nov. 22, 2024.

sampled, sample sizes are not large enough to draw state-specific conclusions. Nevada could follow the lead of other states that have funded expanded surveys to achieve representative samples sufficient for state-specific insights.

- Nevada Youth Risk Behavior Study – A biannual survey of middle and high school students about health factors, including drug use.<sup>75</sup> The state currently funds some survey questions, but adding more could provide a more complete understanding of youth exposure to and use of cannabis.

Small investments in research (for example, 5% of cannabis revenues) could have tremendous impact in advancing the state’s policy, increasing knowledge and reducing harms. Including higher education in the educational recipients aligns with the intent of the fund and could have outside, long-term benefits for the state.

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<sup>75</sup> University of Nevada Reno. "[Nevada Youth Risk Behavior Survey \(YRBS\)](#)." Last accessed Nov. 23, 2024.

## ABOUT THE AUTHORS



### ***Riana Durrett, JD, LLM***

Riana Durrett, a well-known figure in Nevada’s cannabis law and policy space, is the inaugural director of UNLV’s Cannabis Policy Institute, which launched in 2023. She also teaches cannabis law and regulation courses at UNLV’s William S. Boyd School of Law.

Riana was appointed by the Governor as the first vice chair of the Nevada Cannabis Compliance Board. Prior to her work with the CCB, Durrett served as executive director of the Nevada Dispensary Association, where she established the association as the primary resource on best practices in Nevada’s cannabis industry—developing the association into the primary regulatory and government affairs voice for Nevada’s cannabis industry.

Durrett is an attorney admitted to practice law in Nevada and California. While pursuing her law degree, Durrett participated in several internship and externship programs, including a judicial internship for the Suquamish Tribe.



### ***Christina Dempsey, MBA***

Christina Dempsey is the Director of the Cannabis Policy Lab, a nonpartisan organization that educates government staff and elected officials about cannabis legalization and regulatory implementation.

Christina was one of the first cannabis staff hired by the State of California and, during six years under two Governors, helped develop its early approaches to market oversight. She played an integral role in establishing the state’s Department of Cannabis Control and was appointed its first Policy & Research Director.

As a state cannabis regulator, Christina directed a \$20 million grant program, two multi-million dollar public awareness campaigns, and the development of a state web portal and public data tool. She was recognized twice by the California Department of Public Health with awards for extraordinary service, including for supporting crisis response and public messaging during EVALI, a national health crisis caused by contaminated vaping products.

Christina has extensive experience developing statutory and regulatory frameworks, managing public affairs, and directing multi-agency government initiatives. She is an inaugural member of the S3 Collective’s Government Advisory Board and previously co-chaired the national Cannabis Regulators Association (CANNRA) Public Health and Data Committee.



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The CPI’s affiliated research faculty at UNLV support the institute by promoting cannabis research as well as assisting in carrying out the CPI’s multidisciplinary mission. Affiliated faculty include:

- Marla Royne Stafford, PhD, Professor of Marketing in the Lee Business School
- Jacob Erickson, PhD, Assistant Professor of Sociology in the College of Liberal Arts
- Emily Troshynski, PhD, Criminal Justice Associate Professor
- Seong Park, PhD, Graduate Coordinator and Criminal Justice Associate Professor

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## **Research Participants\***

A'Esha Goines, Consultant, Black Joy Consulting  
Adam Fulton, Managing Partner, Jennings & Fulton  
Adriana Guzmán Fralick, Attorney, AGF Law & Chair, Nevada Cannabis Compliance Board  
Alan Feldman, Director of Strategic Initiatives, International Gaming Institute, University of Nevada, Las Vegas  
Alec Garcia, Managing Member, 374 Labs  
Alicia Ashcraft, Managing Partner, Ashcraft & Barr LLC  
Allison Herr, Senior Deputy Attorney General, Nevada Attorney General's Office  
Amanda Connor, Attorney, Connor & Connor PLLC  
Amber Powell, Executive Assistant, Nevada Cannabis Compliance Board  
Andy Hitchcock, Co-Owner, Nature's Chemistry  
Anthony Garasi, Senior Deputy Attorney General, Nevada Attorney General's Office  
Becky Harris, Distinguished Fellow in Gaming and Leadership, Office of Economic Development, University of Nevada, Las Vegas  
Bonnie Chu, Owner & Manager, Euphoria Wellness  
Brett Scolari, Vice President of Government Relations, Strategies 360  
Bruce Burnett, Manager & Owner, Ace Analytical  
Chandler Cooks, Business Advisor, Urban Chamber of Commerce  
Chris Anderson, President, Sala Consulting  
Darlene Purdy, Managing Director, Euphoria Wellness  
Dave Colvin, Tribal Attorney, Las Vegas Paiute Tribe  
Dave Staley, Investigations and Enforcement Division Chief, Nevada Cannabis Compliance Board  
David Goldwater, Partner, Pinyon Public Affairs  
Don Williams, Vice President of Government Relations, Curaleaf  
Emily Bordelove, Senior Deputy Attorney General, Nevada Attorney General's Office  
Eugene Hillsman, Deputy Director of Equity & Inclusion, California Department of Cannabis Control  
Harrison Bohn, Policy Advisory & Associate, Brownstein Hyatt Farber Schreck LLP  
Isaac Maceo, Scientific Director, G3 Labs  
Jacob Erickson, Assistant Professor of Sociology, University of Nevada, Las Vegas  
James (Jimmy) Humm, Executive Director, Nevada Cannabis Compliance Board  
James Hammer, CEO, Carrot  
Jennifer L Pearson, Associate Professor of Health Administration and Policy, University of Nevada, Reno  
Jennifer Roberts, Adjunct Professor, University of Nevada, Las Vegas, William S. Boyd School of Law  
John Laub, Founder and President, Nevada Biotechnology & Health Science Consortium  
Joshua Martinez, Captain, Las Vegas Metropolitan Police Department  
Judah Zakalik, Co-Owner, Zion Gardens  
Kara Cronkhite, Health and Safety Division Chief, Nevada Cannabis Compliance Board



KayAnn Tyssee, Vice President of Compliance, Curaleaf  
Kim Maxton Rushton, Partner, Cooper Levenson  
Kouanin Villa, Co-Founder, Green Life Productions  
L. Kristopher Rath, Senior Deputy Attorney General, Nevada Attorney General's Office  
Layke Martin, Executive Director, Nevada Cannabis Association  
Marla Royne Stafford, Professor of Marketing, University of Nevada, Las Vegas & Director of  
Research, University of Nevada, Las Vegas Cannabis Policy Institute  
Matt Griffin, Partner, Griffin Company  
Michael Miles, Deputy Director, Nevada Cannabis Compliance Board  
Michelle Tomasino, Clinical Trials Manager, Sponsored Programs, University of Nevada, Las  
Vegas  
Mitch Britten, CEO, Thrive Cannabis Marketplace & Board Member, Nevada Cannabis  
Advisory Commission  
Nicole Buffong, National Event Coordinator, Minorities for Medical Marijuana (M4MM)  
Paul Schloss, CEO, Redwood Cultivation  
Robin Goldstein, Professor of Economics, University of California, Davis & Director, Cannabis  
Economics Group  
Ryan Breeden, Chief Revenue Officer, Deep Roots Harvest  
Scot Rutledge, Chief Marketing Officer, CTrust  
Shane Kraus, Associate Professor, University of Nevada, Las Vegas  
Steve Cantwell, Co-Founder, Green Life Productions  
Steve Gilbert, Licensing and Administration Division Chief, Nevada Cannabis Compliance  
Board  
Tiffany Newbern-Johnson, Director of Government Affairs, Green Thumb Industries  
Todd Denkin, President & Founder, Digipath  
Tyler Harrison, Communications Director, Nevada Cannabis Compliance Board  
Tyler Klimas, Founder, Leaf Street Strategies & Former Executive Director, Nevada Cannabis  
Compliance Board

\*Some research participants requested/were granted anonymity for their participa-  
tion and are not included on this list.